IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3341 OF 2005

Pradeep Narayan Madgaonkar ..Applicant

V/s.

The State of Maharashtra ..Respondent

Mr.Rajendra Shirodkar with Adhik Shirodkar for the applicant.

Mrs.Rajashree Gadhavi APP for Respondent.

Coram : R.S.MOHITE,J

Date : 17.05.2005.

PC

1. This is an application for grant of anticipatory bail. The applicant is shown as an accused in C.R.No.I-86/2005 lodged at Nerul police station registered on 21.3.2005. The case concerns the murder of one Sanjay Gupta by 3 un-known persons. The present applicant was not one of the assailants but is said to be a person who was a part of the conspiracy.

2. The applicant had filed anticipatory bail application before the Sessions Court on 3.5.2005. On 4.5.2005, the learned Sessions Judge, Thane had issued the notice to the police and had directed the applicant to remain present on 5.5.2005.

3. On 5.5.2005 the applicant made an application for exemption for his appearance. The said application was accompanied by medical certificate issued by Dr.Sinhasan indicating that he was suffering from accute cervical spondylesis and had been advised rest for further 4 weeks. On the same day, the learned Judge directed the Investigating officer to verify the genuiness of the medical certificate. The matter was then listed on 6.5.2005. On 6.5.2005 the Court observed that though the medical certificate had been found by the police to be genuine and actually issued by the concerned Doctor yet the ailment was not very serious and in this view of the matter, anticipatory bail application was dismissed on a technical ground.

4. In my view it is very desirable that the anticipatory bail application be decided on merits by the Sessions Court. In this view of the matter, I set aside the order dated 6.5.2005 passed by the Sessions Judge, Thane below Exhibit-I in Anticipatory Bail Application No.490 of 2005 and direct that the said anticipatory bail application be heard afresh on merits. Upon taking instructions from the Investigating officer, the Advocate for the

applicant and the learned APP have agreed that the applicant should appear before the Sessions Court Thane at 11.00 A.M. on 15.6.2005. The learned Sessions Judge shall hear and decide the matter on merits. The applicant will be required to remain present in the Court on every date till the anticipatory bail application is finally decided. It is made clear that in case of any default for attending the Court, the Sessions Judge, Thane, will be at liberty to dismiss the anticipatory bail application.

5. The applicant may not be arrested till the Anticipatory Bail Application No.490 of 2005 is disposed of on merits. The applicant will also report to the Nerul police station between 5.00 P.M. to 7.00 P.M. on all dates except Sunday till his anticipatory bail application is finally decided.

6. In view of the aforesaid directions, application stands disposed of.

(R.S.MOHITE,J)